

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TINA DIGAETANO,

Plaintiff,

Case No. 23-cv-12078
Hon. Matthew F. Leitman

v.

BLUE CROSS BLUE SHIELD
OF MICHIGAN,

Defendant.

**ORDER GRANTING PLAINTIFF LEAVE
TO FILE A FIRST AMENDED COMPLAINT**

On August 14, 2023, Plaintiff Tina DiGaetano filed this employment discrimination action against Blue Cross Blue Shield of Michigan. (*See* Compl., ECF No. 1.) Blue Cross has now filed a Motion for Judgment on the Pleadings pursuant to Federal Rule of Civil Procedure 12(c). (*See* Mot., ECF No. 11.) One of the bases for the Motion is that DiGaetano has failed to plead sufficient facts to state viable claims under the Supreme Court's decisions in *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). (*See, e.g., id.*, PageID.88-89, 93.)

Without expressing any view regarding the merits of the Motion, the Court will grant DiGaetano the opportunity to file a First Amended Complaint in order to remedy the alleged deficiencies in her allegations. The Court does not anticipate

allowing DiGaetano another opportunity to amend to add factual allegations that she could now include in her First Amended Complaint. Simply put, this is DiGaetano's opportunity to amend her allegations to cure the alleged deficiencies in her claims.

By **April 8, 2024**, DiGaetano shall file a notice on the docket in this action notifying the Court and Blue Cross whether she will amend her Complaint. If DiGaetano provides notice that she will be filing a First Amended Complaint, she shall file that amended pleading by no later than **April 22, 2024**. If DiGaetano provides notice that she will not be filing a First Amended Complaint, she shall respond to Blue Cross' Motion for Judgment on the Pleadings by no later than **April 22, 2024**.

Finally, if DiGaetano provides notice that she will be filing a First Amended Complaint, the Court will terminate without prejudice Blue Cross' currently-pending Motion for Judgment on the Pleadings as moot. Blue Cross may file a renewed motion directed at the First Amended Complaint if it believes that such a motion is appropriate after reviewing that pleading.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: March 27, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 27, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager
(313) 234-5126